

AMENDED IN SENATE JUNE 10, 2010

AMENDED IN ASSEMBLY APRIL 13, 2010

AMENDED IN ASSEMBLY MARCH 24, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1858

Introduced by Assembly Member Blumenfield
(Coauthors: Assembly Members Ammiano, Monning, and Skinner)

February 12, 2010

An act to amend Sections 121349, 121349.1, 121349.2, and 121349.3 of the Health and Safety Code, relating to public health.

LEGISLATIVE COUNSEL'S DIGEST

AB 1858, as amended, Blumenfield. Hypodermic needles and syringes: exchange services.

Existing law regulates the sale, possession, and disposal of hypodermic needles and syringes, and requires, with certain exceptions, a prescription to purchase a hypodermic needle or syringe for human use. Existing law prohibits any person from possessing or having under his control any hypodermic needle or syringe, except in accordance with those regulatory provisions.

Existing law authorizes a clean needle and syringe exchange project in any city and county, county, or city, as specified.

This bill would permit the State Department of Public Health to authorize certain entities, that meet prescribed conditions, to provide hypodermic needle and syringe exchange services in any location where the department determines that the conditions exist for the rapid spread of HIV, viral hepatitis, or any other potentially deadly or disabling

infection spread through the sharing of used hypodermic needles and syringes.

The bill would also require the department to allow local entities to apply for authorization to ~~provide hypodermic needle and syringe exchange services and~~ to establish and maintain on its Internet Web site the address and contact information of programs providing hypodermic needle and syringe exchange services. The bill would change related hearing requirements from annually to biennially.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 121349 of the Health and Safety Code
2 is amended to read:

3 121349. (a) The Legislature finds and declares that scientific
4 data from needle exchange programs in the United States and in
5 Europe have shown that the exchange of used hypodermic needles
6 and syringes for clean hypodermic needles and syringes does not
7 increase drug use in the population, can serve as an important
8 bridge to treatment and recovery from drug abuse, and can curtail
9 the spread of human immunodeficiency virus (HIV) infection
10 among the intravenous drug user population.

11 (b) In order to reduce the spread of HIV infection and
12 bloodborne hepatitis among the intravenous drug user population
13 within California, the Legislature hereby authorizes a clean needle
14 and syringe exchange project pursuant to this chapter in any city
15 and county, county, or city upon the action of a county board of
16 supervisors and the local health officer or health commission of
17 that county, or upon the action of the city council, the mayor, and
18 the local health officer of a city with a health department, or upon
19 the action of the city council and the mayor of a city without a
20 health department.

21 (c) In order to reduce the spread of HIV infection, viral hepatitis,
22 and other potentially deadly bloodborne infections, the State
23 Department of Public Health may, notwithstanding any *other*
24 provision of law, authorize ~~clinics~~ *entities* that apply for
25 authorization and that have sufficient staff and capacity to provide
26 services as described in Section 121349.1, as determined by the
27 department, ~~or other entities that apply for authorization,~~ to provide

1 hypodermic needle and syringe exchange services consistent with
2 state and federal standards, including those of the United States
3 Public Health Service, in any location where the department
4 determines that the conditions exist for the rapid spread of HIV,
5 viral hepatitis, or any other potentially deadly or disabling infection
6 spread through the sharing of used hypodermic needles and
7 syringes.

8 (d) The State Department of Public Health shall establish and
9 maintain on its Internet Web site the address and contact
10 information of programs providing hypodermic needle and syringe
11 exchange services pursuant to subdivision (c).

12 (e) The authorization provided under this section shall only be
13 for a clean needle and syringe exchange project as described in
14 Section 121349.1.

15 SEC. 2. Section 121349.1 of the Health and Safety Code is
16 amended to read:

17 121349.1. The State Department of Public Health, or a city
18 and county, or a county, or a city with or without a health
19 department, in consultation with the State Department of Public
20 Health, that acts to authorize a clean needle and syringe exchange
21 project pursuant to this chapter shall authorize the exchange of
22 clean hypodermic needles and syringes, as recommended by the
23 United States Public Health Service, subject to the availability of
24 funding, as part of a network of comprehensive services, including
25 treatment services, to combat the spread of HIV and bloodborne
26 hepatitis infection among injection drug users. Staff and volunteers
27 participating in an exchange project authorized by the state, county,
28 city, or city and county pursuant to this chapter shall not be subject
29 to criminal prosecution for violation of any law related to the
30 possession, furnishing, or transfer of hypodermic needles or
31 syringes during participation in an exchange project. Program
32 participants shall be allowed to possess syringes consistent with
33 Section 11364.

34 SEC. 3. Section 121349.2 of the Health and Safety Code is
35 amended to read:

36 121349.2. Local government, local public health officials, and
37 law enforcement shall be given the opportunity to comment on
38 clean needle and syringe exchange programs on a biennial basis.
39 The public shall be given the opportunity to provide input to local
40 leaders to ensure that any potential adverse impacts on the public

1 welfare of clean needle and syringe exchange programs are
2 addressed and mitigated.

3 SEC. 4. Section 121349.3 of the Health and Safety Code is
4 amended to read:

5 121349.3. The health officer of the participating jurisdiction
6 shall present biennially at an open meeting of the board of
7 supervisors or city council a report detailing the status of clean
8 needle and syringe exchange programs, including, but not limited
9 to, relevant statistics on bloodborne infections associated with
10 needle sharing activity and the use of public funds for these
11 programs. Law enforcement, administrators of alcohol and drug
12 treatment programs, other stakeholders, and the public shall be
13 afforded ample opportunity to comment at this annual meeting.
14 The notice to the public shall be sufficient to ensure adequate
15 participation in the meeting by the public. This meeting shall be
16 noticed in accordance with all state and local open meeting laws
17 and ordinances, and as local officials deem appropriate. For
18 hypodermic needle and syringe exchange services authorized by
19 the State Department of Public Health, a biennial report shall be
20 provided by the department to the local health officer based on the
21 reports to the department from service providers within the
22 jurisdiction of the local health officer.